



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CRIMINAL DIVISION (302) 577-8500
FAX (302) 577-2496
CIVIL DIVISION (302) 577-8400
FAX (302) 577-6630
TTY (302) 577-5783

December 5, 2007

Jeffrey K. Martin, Esquire
1508 Pennsylvania Avenue, Suite 1C
Wilmington, DE 19806

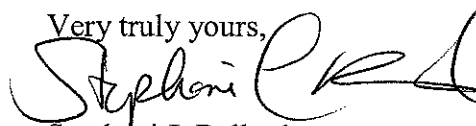
via CM/ECF and US Mail

Re: *Barkes v. FCM, et al.*
C.A. No. 06-104 JJF

Dear Mr. Martin:

On December 4, 2007, I received copies of "Plaintiffs' Supplemental Response to the State Defendants' First Set of Requests for Production of Documents." (Notice of Service filed as D.I. 57). This letter is to formally object to your attempt to "supplement" discovery several months after the discovery cutoff¹, and even after summary judgment briefs have been completed and filed with the Court.

State Defendants, in their summary judgment reply brief, objected to Plaintiffs' attempt to rely on these very documents in Plaintiffs' Appendix at B-1-136. Defendants object to Plaintiffs' attempt to use these documents because they are not part of the discovery or Rule 56 record and, moreover, are not relevant to the individual case at bar, have not been opined upon by a witness, and would be inadmissible at trial. Plaintiffs cannot circumvent or cure these objections by a "supplementation" after discovery has closed and when the case is already at issue before the Court on summary judgment.

Very truly yours,

Stephani J. Ballard
Deputy Attorney General

SJB/jom

cc: Clerk of the Court (via CM/ECF)
Daniel L. McKenty, Esquire (via CM/ECF)

¹ August 31, 2007 (Scheduling Order, D.I.#17).